

PLANNING COMMISSION MINUTES OF MAY 8, 2006

2006-0153 – Classic Communities [Applicant] **Batton Associates, LLC** [Owner]: Application for related proposals on a 1.3-acre site located at **1049 Kiel Court** (near Weddell Dr) in an M-S/ITR/R-3/PD (Industrial & Service/Industrial to Residential/ Medium-Density Residential/ Planned Development) Zoning District. (APN: 110-14-144) KD; **(Continued from April 24, 2006)**

- Special Development Permit to allow 30 stacked flats and 4 townhouse units totaling 34 units on a 1.3 acre site,
- Parcel Map to subdivide one lot for condominium units and one common area.

Kelly Diekmann, Associate Planner, presented the staff report. Mr. Diekmann said staff is supportive of the overall project, but has some substantial Conditions of Approval (COAs) that do affect the overall design. Mr. Diekmann explained some of the issues including: a site planning issue regarding parking that results in the project not meeting the guest space allowance per unit (guest parking requirements); the value of the open space proposed in the project explaining that the configuration of the open space limits the use of the space; and the architecture, which the applicant has worked to address staff's concerns (requesting a more contemporary design). Mr. Diekmann said that staff addresses these major issues in the COAs.

Comm. Babcock asked why staff has required in the COAs that the balcony depths be increased from 4 feet to 7 feet. Mr. Diekmann said that staff required the 7 feet to provide more useful open space for the units and, though not required, that the 7-foot balcony is standard in the Code. Comm. Babcock and staff further discussed the balconies including the structure, and confirmed that the additional open space would not free up more useable space for parking, but would be supplemental to the total open space already proposed. Comm. Babcock and staff discussed parking requirements between carports and garages, and the COAs under the Conditions, Covenants and Restrictions (CC&Rs) regarding Homeowner Associations (HOAs) and the requirement that garages must be maintained for the use of parking a car. Mr. Diekmann said that the CC&Rs have this requirement, but it is the HOAs responsibility to enforce the requirement rather than the City.

Comm. Simons asked staff about the proposed color schemes for the project. Mr. Diekmann said the applicant would be addressing the colors, but that the proposed color schemes are based on grays, tans and browns rather than bolder colors. He said COA 5.E does request a bolder color alternative be provided for the entryways. Comm. Simons asked that since the architecture is a "modern" style why is it more appropriate to go with a monochromatic palette. Mr.

Diekmann explained that the designs of the buildings are relatively simple and that staff agrees with the applicant that a more subtle color scheme is appropriate. Comm. Simons and staff further discussed some of the architectural features including window patterns, the ground level overhangs, and bracing elements. Mr. Diekmann said the aim was to stay true to the modern architecture and to stay away from “tacking on” adornments to the design. Comm. Simons asked, other than modern, what this type of architecture would be called. Mr. Diekmann said staff does not know what else it might be, but that the description of the style would be defined by the features in the architecture, rather than a particular style.

Comm. Klein referred to COA 5.B.1 regarding, “Increase relief of the flats building front popouts to 24 inches” and asked which setbacks this increase would effect. Mr. Diekmann said the west, the south and east front elevations of the buildings could be effected. Comm. Klein referred to COA 9.A requiring a spa be included in the hardscape, and asked what the reason was for specifying this amenity. Mr. Diekmann said staff felt the use of the space needed to be defined because the space is linear and a spa seemed to be a useful option for the hardscape gathering area. Comm. Klein commented that he expected to see language with the applicant working with staff to determine the use rather than a specific use listed that could add ongoing costs to the CC&Rs. Comm. Klein referred to COA 9.C regarding the requirement for a transportation information display/kiosk, and asked staff to comment regarding this requirement. Mr. Diekmann said this COA has been included on all similar projects since August of 2005, with the goal being to provide transportation information at a high activity spot.

Comm. Sulser referred to COA 9.B and asked if staff’s intent regarding the bocce ball court is a requirement or an example of a possible activity for the area. Mr. Diekmann said that the way the COA is written that it is a requirement due to the shape of the space and minimal maintenance required for the activity. Comm. Sulser referred to options listed in the report for solving the parking deficiency issue, and asked why staff prefers the removal of a “duet” unit, instead of installing carports. Mr. Diekmann said there are two reasons for the recommendation for the duet removal, directly, parking and indirectly, open space. Staff prefers the removal of a duet unit over modifying the garages to carports as garages are a known commodity for residents and the additional open space will allow more surface parking. Comm. Sulser referred to page 8 of the report regarding a “consulting architect” and asked if it was common for staff to consult an architect. Mr. Diekmann said staff works with Larry Cannon, AIA, approximately three to four times a year for projects ranging from single-family homes to large-scale projects.

Chair Hungerford asked staff to indicate on the site plans which garages might be changed to carports if this option is chosen. Staff pointed out garages on the site plans that would have to be modified to become carports. He said that 2/3 of

the units would need to be modified to be carports to meet the parking ratio. Mr. Diekmann said the Code specifies that a garage must be fully enclosed so removing the garage doors would qualify the spaces as carports. Chair Hungerford asked who owns the wall on the north side of the property. Mr. Diekmann confirmed that the wall on the north side is already in place and is the responsibility of the Danbury Place HOA.

Chair Hungerford opened the public hearing.

Scott Ward, representing the applicant Classic Communities, said he has enjoyed a constructive and long relationship with staff over the years, but was dismayed by the staff report. He said he has had a lot of dialog with staff about the project and the site plan. Mr. Ward presented a PowerPoint presentation and showed several alternative site plans that have been presented. He said staff has dictated their preferred alternatives and attempted to dictate the architecture. He said staff did not mention to the applicant the alternative of the reduction of density to increase the parking and that they were unaware of this recommendation until Friday, May 5, 2006. He said if staff had mentioned it that the applicant would have been able to find three additional parking spaces which puts the proposal within 4 or 5 parking spaces of the Code requirement, or 91% of the Code guideline. He said the Planning Commission recently approved a similar development for Classic Communities neighboring this site meeting 80% of the Code guideline for parking spaces. He said Classic Communities has given up significant amounts of property on previous projects to allow for direct walking paths to the light rail station. He said the ordinance itself is flawed and gave numbers supporting his statement regarding how many guest parking spaces are required per number of bedrooms per unit. He said communities everywhere are reducing parking requirements for projects located within ½ mile of transit stations. Mr. Ward gave examples of different parking requirements for San Francisco and Mountain View indicating by other standards that this site is over parked. He said that this project is a different type of housing and density is important and from an urban design perspective, having at least two building types on the streetscape provides much more variety and visual interest. He said he respectfully asks for the Planning Commission to approve the deviation as proposed. He said with respect to architecture, they had received favorable responses from the Planning Commission, yet staff wants a more modern building, so the plans have not gotten far. He said the applicant does not agree with staff on the fundamental design concept. He said they want to do a modern building where less is more that has simple clean lines. He said they like Larry Cannon, and he does not like buildings like this and that he does not have much experience with this type of architecture. Mr. Ward said he is extremely familiar with the modern genre and that he does not feel staff has the background or capability in modern architecture to make judgments of this type. He stated that he has a special modern home that has been published. He requested that the Planning Commission remove COAs 5.B 1 through 10 and COAs 5.C and 5.E. He said COAs 5.B 2,3,4,6,8, and 9 are particularly onerous. He said if the

Planning Commission does not want to remove the COAs and has difficulty moving forward with the project as proposed that his recommendation is to go back to the Junction Oaks building approved less than four months ago and adjust the materials and colors on that building, design the duet to be consistent with the Junction Oaks building and move forward on that basis. Mr. Ward said staff did not mention COA 9.A, the inclusion of a spa, to the applicant. He requested that COA 9.A also be removed and gave reasons for the removal including, not knowing what a spa is, how it would address the open space, the need to run water, electrical and sewer lines and the need for the HOA to maintain it. He said that a bocce ball court makes sense for the open space. He commented that the proposed project has no more Code deviations than many of the approved projects for this area. He said this site is the last piece of a puzzle in this area and that this site has had much more challenging site constraints than neighboring properties. He asked the Planning Commission to approve the proposed project with the addition of three parking spaces, with the architecture as proposed, or to approve this plan with the architecture that was approved four months ago for the Junction Oaks building, and without a spa.

Comm. Simons discussed the location for the three additional parking spaces and said he thought the spots where these might go are actually spots for trash containers. Comm. Simons commented about possible parallel parking at the entrance and asked Mr. Ward if they considered using this area for additional parking. Mr. Ward said that with the parking modifications, the trash enclosure would remain in approximately the same location with a slight shift to the west. Comm. Simons referred to Mr. Ward's comment about being comfortable with the bocce ball concept, but not with the spa, and asked if there would be a problem with the concept of having more hardscape than plain lawn. Mr. Ward said that would not be a problem. Comm. Simons confirmed with Mr. Ward that having an area that functions as a gathering place would not be a problem. Comm. Simons commented that a number of architectural modifications have been made since the original proposal. Mr. Ward said he is comfortable with the architecture currently proposed, but not comfortable with "dolling it up" with non-functional building materials as required in the COAs, as the architecture loses the honest modern character. Mr. Ward said that is why he is objecting to some of the COAs. Comm. Simons and Mr. Ward discussed other issues including: Mr. Ward not being opposed to COA B.1, the front popouts being an additional 12 inches, but that he is opposed to the material change; Mr. Ward said modern buildings are monolithic; alternative windows keeping the same header height take advantage of the light; the wrap around deck and changing the depth from 4 feet to 7 feet which Mr. Ward indicated would be expensive and less elegant and simple; Mr. Ward said he was okay with the popout roof treatment; and Mr. Ward said he is okay with the drabber palette with a brighter color entryway. Comm. Simons also asked about the lighting requirements and said he would like to see lighting by the doors. Mr. Ward said lighting by the doors is usually included. Mr. Ward added that enclosing the garages is important from a marketability standpoint and structural standpoint. Comm. Simons and Mr. Ward discussed

different building materials, and confirmed that the garage doors would probably be metal.

Chair Hungerford closed the public hearing.

Comm. Sulser asked staff to comment on the proposed three additional parking spaces. Mr. Diekmann said that he believes that the way staff calculates the technical requirements for open space, that cutting a space into an area that has been previously counted as open space will take the project under the minimum standard for the site. He said moving trash enclosures around for two parking spaces on the site is not simple, so the Solid Waste Division would need to review any changes, so he cannot say whether this area would work. He said if the Planning Commission wants to address a deviation and give the applicant a slight decrease in open space then the additional third parking space could be added in.

Comm. Simons asked if the Planning Commission could further discuss the contentious issues between the staff recommendation and the developer suggestions due to the multiple issues and complicated nature of the project.

Comm. Simons moved for Alternative 2 to approve the Special Development Permit and Tentative Map with modified conditions. Comm. Simons suggested the Commissioners go through the COAs, discuss any of the COAs that there has been an issue with and modify the COAs based on the Commission discussion. The Commission agreed with the suggestion.

Comm. Babcock suggested COA 1.E.h, regarding eliminating two of the units, be discussed. Comm. Simons said the Commission needs to talk about the parking or the units. Mr. Diekmann explained the structure of the COAs and said that this COA allows for the deviation and is not the COA that eliminates the units. Mr. Diekmann said if the Commission is going to allow a deviation then this COA should be reworded, and if the COA is eliminated then the deviation for parking is not being allowed. Mr. Diekmann said the issue of the number of units is addressed in COA 5. He said the purpose of COA 1.E is specifically to identify what deviation is allowed. The Commission decided to come back to this COA after a decision regarding the number of units and the parking is determined.

The Commission made no changes to COAs 2, 3 or 4.

The Commission discussed COA 5 and made the following modifications to the COAs:

Delete COA 5.A entirely, including 1 and 2;

The Commission discussed COA 5.B.2 considering changing the balcony back to 4 feet, but after further consideration determined that keeping the balcony depth to a minimum of 7 feet that the area can be applied to the open

space and would make the balconies more useable for the residents. The Commission felt that aesthetically the 4 foot balconies were more pleasing. They further discussed calculating the open space with the 4 feet balconies included and what the architectural look of the balconies would be best for the long term. The Commission said they would like to see the applicant determine the type of balcony bracing that would be appropriate for the modern style architecture. **The final decision was to leave COA 5.B.2 as is;**

Delete COA 5.B.3;

Delete COA 5.B.4;

Modify the wording of COA 5.B.5 to read “Continue to develop the window interest for the buildings in terms of size, number, and placement on the facades of both the flats and duets with an emphasis on the upper levels and providing for light access for review and final approval by the Director of Community Development”;

Delete COA 5.B.6;

Delete COA 5.B.7;

Delete COA 5.B.8;

Delete COA 5.B.9;

Retain COA 5.B.10;

Retain the remainder of COA 5. from C through I.

The Commission made no changes to COAs 6, 7 and 8.

The Commission discussed COA 9 and made the following modifications to the COAs:

Modify COA 9.A removing the reference to the spa, and modifying the language to read “Prior to the issuance of a building permit, provide a modified landscape plan that includes a hardscaped gathering multi-use area”;

Modify COA 9.B removing the wording “and improvements for a bocce ball court” but to maintain that a specific activity needs to be worked out with staff;

Modify COA 9.M to include the language “large species native trees as appropriate for the site.”

The Commission discussed COA 12 and determined that the Commission should return to COA 1 to determine the number of parking spaces and any deviation.

The Commission added COA 12.G that each unit shall be assigned one fully enclosed garage, and carports are not permitted.

The Commission made no changes to COAs 14, 15 and 16.

The Commission further discussed and **modified COA 1.E.h removing the recommendation for a “32 unit design maximum,”** and said with the increase in the balcony size as shown in COA 5.B.2 that there is an increase in the open space resulting in a possible deviation of 4 or 5 parking spaces including the three parking spaces mentioned by the applicant. The Commission acknowledged that the actual deviation is not currently known. Mr. Diekmann said with the trash enclosure issue not known, he could not say how many additional parking spaces could fit on the site. Mr. Diekmann said the Commission could approve the COAs by stating no more than a 7 parking space deviation, but if it is the Commission’s intent is to go with the design proposed by the applicant, he recommended the deviation be structured to “incorporate up to three additional parking spaces on site provided the trash enclosure system functions in the appropriate way.” The Commissioners discussed the possibility of adding to the CC&Rs a mandate requiring passes for transit, and the effect of the enlarged balconies on the amount of open space allowing for additional parking spaces asking staff how the COAs could be worded to use the balconies towards the open space requirement. Staff and the Commission discussed possible areas where additional parking could be considered and determined structuring the condition with maximum deviations and to explore different parking arrangements alternatives with staff to best meet the needs of the site. **The Commission determined that the maximum deviation should be 7 parking spaces to be worked out with staff to minimize that number as much as possible with available space** due to the additional open space gained with the enlarged balconies.

Comm. Simons modified 13.A adding the language that the 3 bike parking spaces be located outside the central landscape area, **“but within a high visibility area on the site”** for security reasons.

Comm. Babcock seconded the motion.

Mr. Diekmann recapped the motion including 1.E.h **for the applicant to work with staff to incorporate up to 5 additional parking spaces.** The Commission agreed with the recap.

Final Action:

Comm. Simons made a motion on 2006-0153 to approve the Special Development Permit and Tentative Map with modified conditions: to modify Condition of Approval (COA) 1.E.h removing the recommendation for a “32 unit design maximum” and adding that the maximum deviation should be 7 parking spaces and for the applicant to work with staff to incorporate up to 5 additional parking spaces; to delete COA 5.A entirely; to delete COA 5.B.3; to delete COA 5.B.4; to modify COA 5.B.5 to read “Continue to develop the window interest for the buildings in terms of size, number, and placement on the facades of both the flats and duets with an emphasis on the upper levels and providing for light access for review and final approval by the Director of Community Development; to delete COA 5.B.6; to delete COA 5.B.7; to delete COA 5.B.8; to delete COA 5.B.9; to modify COA 9.A removing the reference to the spa, and modifying the language to read “Prior to the issuance of a building permit, provide a modified landscape plan that includes a hardscaped gathering multi-use area”; to modify COA 9.B removing the wording “and improvements for a bocce ball court” but that a specific activity for the area is to be approved by staff; to modify COA 9.M to include the language “large species native trees as appropriate for the site”; to add a new COA 12.G that each unit shall be assigned one fully enclosed garage; to modify COA 13.A to include that that the location of the bicycle parking spaces are “within a high visibility are on the site.” Comm. Babcock seconded.

Motion carried unanimously, 6-0.

This item is appealable to City Council no later than May 23, 2006.